

### REMARKS

Claims 6-9, 20-27 and 30-34 are active. Claims 8, 9, 21-23, and 25-26 have been withdrawn from consideration. Editorial revisions have been made to further clarify the claims or eliminate improper dependencies or double patenting issues mentioned by the Examiner. Claim 1 has been revised to refer to a composition "comprising" isolated components (A) and (B). New Claims 33 and 34 refer to compositions "consisting essentially of" isolated components (A) and (B) find support as for prior Claim 1. Accordingly, the Applicants do not believe that any new matter has been added. Favorable consideration and allowance of this application is now respectfully requested.

The Applicants thank Examiner Hoffman for the courteous and helpful discussion of June 20, 2007. The rejection based on art disclosing piperine and possible deletion of subject matter involving heat components from *Piperaceae* were discussed. If such subject matter were deleted, examination would continue with regard to other species of heat components from ginger and red pepper.

### Election/Restriction

The Applicants previously elected Group II (method of treatment) and the a species of compound for use in the elected method comprising (A) chlorogenic acid and (B) a central nervous system stimulating component. The Restriction Requirement has been made FINAL. On June 2, 2005 the Applicants were required to further elect a single species of component (B) and subsequently elected (B) zingerol which is a heat component of ginger (*Zingiberaceae*). The claims as directed to the elected species (A) chlorogenic acid + (B) zingerol or capsaicin have been found in condition for allowance except for formal matters.

The Applicants respectfully request examination of compositions containing other isolated heat components from ginger and red pepper.

#### Objections—Claims

The objections to Claims 27 and 30-32 are moot in view of the amendments above.

#### Rejection—35 U.S.C. § 103

Claims 6, 7, 20 and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al., Chinese Pharm. Journal 46:575 and Neogi et al., J. Res. Ind. Med. 6:24. This rejection is moot in view of the amendments above which direct the claims to heat components from ginger and red pepper. Neogi refers to piperine a heat component from black pepper.

#### Double Patenting

Claim 30 was rejected as a substantial duplicate of Claim 24. This rejection is now moot.

#### Provisional Rejection—Obviousness-type Double Patenting

Claim 6, 7, 20 and 29 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending U.S. Applications 09/922,694, 10/826,289, 10/632,810, 10/810,611, or 11/106,428, in view of Neogi et al., J. Res. Ind. Med. 6:24. This rejection is moot in view of the amendment of the claims which now are directed to heat components of ginger and red pepper.

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Should these provisional rejections be maintained, the Applicants respectfully request that they be withdrawn upon an indication of allowability for the present claims if the copending claims have not yet been allowed at that time.

Allowable Subject Matter

The Applicants thank Examiner Hoffman for indicating that the subject matter of Claim 24 is allowable and that of Claims 27 and 30-32 is free of the prior art.

CONCLUSION

After consideration of the above amendments and remarks, the Applicants respectfully request that this application be identified as being in a suitable condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Thomas M. Cunningham", written over the printed name and registration number.

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